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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,076	12/19/2000	James D. Thornton	D/99578	4563

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EXAMINER
ZHEN, LI B

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 January 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: *n/a*.

    Claim(s) objected to: *n/a*.

    Claim(s) rejected: *1,2,4-12 and 17-30*.

    Claim(s) withdrawn from consideration: *n/a*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 3. NOTE: The applicant's amendment to claim 9 includes new limitations (i.e. claim lines 13 - 15). These limitations were not recited in claim 9 or its dependent claims and would require further consideration and search.

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive. In response to the Final Office Action dated 11/29/2005, applicant argues:

(1) Suspending a server until a task is available is quite different that informing a service provider to not send further request work signals until the service provider receives a work available signal [p. 9, lines 23 - 29]; and

(2) When a server is suspended in Yocom, that server is not capable of performing any tasks for itself and/or for any other work managers. In contrast, the idle signal only causes the service provider to stop sending request work signals and frees up the service provider to more efficiently perform tasks for itself and/or any other job management apparatus with which it may communicate.

As to argument (1), examiner respectfully disagrees and submits that a suspension signal corresponds to the claimed idle signal. According to a person of ordinary skill in the art, an idle signal causes a computer to stop performing operations and wait for a command. A suspension signal causes a computer to halt temporally and wait for a command to awaken the system. Both signals cause a computer to stop operations and wait for a command. The claim is interpreted as sending a command to the service provider to stop operations, which also causes the service provider to not send further request work signals. The service provider will wait for command to awaken it (work available signal).

In response to argument (2), examiner respectfully disagrees and notes that the claims do not recite and the specification does not disclose or suggest the service provider performing tasks after receiving the idle signal. The claims only require the service provider to stop sending work request after receiving the idle signal and wait for a work available signal. In addition, the specification discloses that the service provider only sends work request only when that service provider is available to perform work [p. 21, lines 19-20]; therefore, there does not appear to be a need to free up the service provider to more efficiently perform tasks for itself and/or any other job management apparatus.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

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